

**TITLE 5: HIGHWAYS, TRAFFIC**  
**DIVISION 1: HIGHWAY PERMIT**  
**Chapter 1: GENERAL PROVISIONS.**  
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**51.011 Scope of General Provisions.**

These general provisions, rules of construction and definitions shall govern the construction of this division, unless the provision or the context provides otherwise.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

**51.012 Delegation of Authority.**

Whenever a power is granted to, or a duty is imposed upon a public officer, the power may be exercised or the duty may be performed by a deputy of the officer or by a person authorized, pursuant to law or ordinance, by the officer, unless this division expressly provides otherwise.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

**51.013 Reference to Ordinances or Statutes.**

Whenever reference is made to any portion of this division or any other ordinance or statute, such reference applies to all amendments and additions now or hereafter made.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

#### **51.014 Terms and Genders.**

The present tense includes the past and future tenses; and the future, the present. The masculine gender includes the feminine. The singular number includes the plural, and the plural, the singular.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

#### **51.015 Definitions.**

Definitions as used in this division:

(a) The term "Section" means a section of this division unless some other ordinance or statute is specifically mentioned.

(b) "County" means the County of San Bernardino, State of California.

(c) "Commissioner" means the Road Commissioner of the County of San Bernardino.

(1) "Commissioner" and "Road Commissioner of the County of San Bernardino are synonymous with the term "Director of Transportation of the County of San Bernardino."

(d) "Highway" means any public roadway, public street, public way, or public place in the unincorporated territory of the County, owned or maintained by the County, or dedicated to the public for the purpose of travel.

(e) "Width" means that dimension measured at right angles to the anterior-posterior axis of the conveyance upon which the building or structure or portion thereof is, or is to be, loaded or moved, or to the median line of the highway over which the same is being, or is to be moved.

(f) In addition to the meanings ordinarily ascribed thereto, the term "building and/or structure" *includes* any machine, implement, device, article of manufacture, tree, derrick, stage or other setting, lumber, sash or door, structural steel, dynamo, transformer, generator, press, industrial tooling, agitator, object or thing having a width of more than eight (8) feet, other than any implement of husbandry or any special mobile equipment, as defined in the California Vehicle Code having a width of ten (10) feet or less.

The term also includes a vehicle or load exceeding the maximum permitted by the California Vehicle Code.

(g) In addition to the meanings ordinarily ascribed thereto, the term "Banner" shall include any article of display, advertising or decorative matter, including but not limited to Christmas, Easter and other holiday festoons on, over, along or across any highway or highway right-of-way.

(h) "Person" includes any individual, firm, copartnership, joint venture, association, corporation, estate, trust, business trust, this State, any county, including this County, and all departments and bureaus thereof, city and county, municipality, district or other political subdivision thereof, or any other group or combination acting as a unit. Provided, however, that the above enumeration shall not include the Transportation Department of this County.

(i) "Moving Contractor" means any person who for himself or for another, moves or causes to be moved, any building or structure, over, upon, along or across any highway.

(j) "Encroachment" includes any tower, pole, pole line, pipe, pipeline, fence, billboard, stand, or building, or any structure or object of any kind or character not particularly mentioned in this division, which is placed in, under, or over any portion of the highway.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

#### **51.016 Issuance of Permits by Commissioner.**

The Commissioner may issue permits, as provided in this chapter, authorizing the permittee to do any of the following acts:

(a) Make or cause to be made any excavation or opening, fill or obstruction in, over, along, on, across or through any highway for any purpose, excepting, however, for or in connection with the installation of poles, guys and anchors constructed for use under a franchise for public utility purposes where such poles, guys and anchors are located outside of the paved or traveled portion of the highway.

(b) Construct or repair, or cause to be constructed or repaired any curb, sidewalk, gutter, driveway, roadway surface, retaining wall, storm drain or culvert, or work of any nature, or place, change or renew an encroachment in, over, along, on, across or through any highway, excepting, however, for or in connection with the installation of poles, guys and anchors constructed for use under a franchise for public utility purposes where such poles, guys and anchors are located outside of the paved or traveled portion of the highway.

(c) Move or cause to be moved over, upon, along or across any highway, any building or structure.

(d) Place any banner over, across, on, or along any highway.

(e) Plant, remove, cut, cut down, injure or destroy any tree, shrub, plant or flower growing within any highway excepting necessary pruning or trimming to protect persons or property.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

**51.017 Violation.**

Every person is guilty of a misdemeanor who violates any provision of this chapter or any permit issued pursuant to the provisions of this chapter, or who fails or neglects to comply with any requirement of this chapter, or who does any of the acts specified in Section 51.016 of this chapter for which a permit is required, without first obtaining a permit from the Commissioner so to do.

Such person is guilty of a separate offense for each and every day during any part of which any such violation or noncompliance occurs, and is punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment in the County Jail for not more than six (6) months, or by both such fine and imprisonment.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960); Amended Ordinance #2377 (1979);

**51.018 Application - Issuance Fee.**

An application for a permit pursuant to the provisions of this division shall be made in writing and filed with the Commissioner, accompanied by any deposit required by this division and an issuance fee of two dollars and fifty cents (\$2.50). Provided, however, that the United States, the State of California, the County of San Bernardino, or any other county in the State of California, any municipal corporation, school district, or other public district or public body, upon filing a written guarantee of payment of all costs for which they may become liable to San Bernardino County, shall not be required to make said deposit or issuance fee. The filing of an application or the issuance of a permit pursuant to this section shall not be deemed a waiver of any right or claim of right by the applicant or permittee.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

**51.019 Requirement of Plans.**

If, in the opinion of the Commissioner, the work proposed to be done requires the making of plans or the setting of stakes, or both, the Commissioner may require the application to be accompanied by the necessary plans, which plans shall be prepared by a competent engineer.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

**15.0110 Performance of Work to Satisfaction of Commissioner.**

The permittee shall perform all work in accordance with plans, if plans are made, and specifications referred to in the permit, to the satisfaction of and under the supervision of the Commissioner.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

**51.0111 Fees, Deposits and Bonds.**

(a) PAYMENT. Except as otherwise provided in this division, the Commissioner shall not issue any permit until all deposits and issuance fees have been paid.

(b) ISSUANCE FEES NOT REFUNDABLE The issuance fees required by the provisions of this division are for the purpose of defraying the cost of issuing the requested permit. No part of any issuance fee may be refunded to any applicant.

(c) DEPOSIT IN FUNDS. Issuance fees and charges for repairs, inspection, or engineering collected under the provisions of this division shall be deposited in the respective funds from which the corresponding disbursements are made.

(d) WAIVER OF ISSUANCE FEES. At the request of permittee who maintains with the Commissioner a general deposit as provided in Chapter 2 or Chapter 4 of this division, the Commissioner may waive the requirements covering prepayment of the issuance fees and bill said permittee for issuance fees covering permits issued subsequent to such request, provided that the amount of said deposit is sufficient to cover said fees and to provide for the other contingencies for which it is given. The Commissioner may revoke such waiver at any time and must revoke the waiver if the permittee fails to pay his bill for fees within the required time.

(e) GENERAL DEPOSIT. In lieu of making any special deposit required by this division, the applicant may make and maintain with the Commissioner a general deposit in an amount estimated by the Commissioner to be sufficient to pay for the cost of permit issuance fees and expected repairs or costs occasioned by the future acts of the applicant for which a permit has been issued. The general deposit shall be held and used for the same purposes as any special deposit prescribed by this division would have been used.

(f) UNDERTAKING IN LIEU OF GENERAL OR SPECIAL DEPOSITS. In lieu of making either a general or special deposit, or to supplement a general deposit not sufficient in amount, the applicant may file an undertaking with the Commissioner in a penal sum of not less than one thousand dollars (\$1,000). Said undertaking to be in compliance with Sections 1056 and 1057 of the Code of Civil Procedure.

(l) Alternative. In lieu of filing an undertaking under the terms set forth in this section and subsection, an applicant under Chapter 4 herein may post with the Commissioner forms approved by the County Counsel consisting of:

(A) An endorsement to any policy of insurance naming the applicant, the County of San Bernardino, State of California, as named insured, and insuring the same against at least the same contingencies against which the said bonds would be security, and in an amount not less than ten thousand dollars (\$10,000); and

(B) A certificate by which the insurer certifies that a policy exists covering the said objects.

Wherever the term "undertaking" is used in Chapter 4 of this division it includes the forms referred to in Section 51.0111, subsection (f)(1) herein.

(g) **WAIVER OF SPECIAL DEPOSIT.** While a general deposit is maintained, or while an undertaking is filed, either or both of which are of an amount sufficient to cover the amount of any special deposit required by this division, the applicant need not make any special deposit.

(h) **EXTRA DEPOSITS AND BONDS.** If, in the opinion of the Commissioner, any special or general deposit, or any undertaking or any combination thereof is not sufficient for the proper protection of the public interest in the highways including any trees thereon, the Commissioner may require either an additional deposit, or an increase in the amount of the bond in such amount as he determines will be sufficient to protect such public interest.

(i) **INSUFFICIENT DEPOSITS.** Where any deposit is determined to be insufficient to pay all fees and costs provided for in this division, the permittee shall, upon demand, pay to the Commissioner an amount equal to the deficiency.

Where the permittee fails or refuses to pay the deficiency upon demand, the Commissioner may recover said deficiency by appropriate action in any court of competent jurisdiction. Until such deficiency is paid in full, no permit shall be issued to such permittee.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

#### **51.0112 Permits.**

(a) **ISSUANCE OF PERMIT PUBLIC RECORD.** If the applicant for a permit complies with every provision of this division and with all applicable provisions of all other ordinances and statutes, the Commissioner shall issue to the applicant a written permit to perform the work set forth in the application. Upon the issuance of such permit the application shall become a public record.

(b) **MONTHLY BILLING FOR PERMITS ISSUED.** Where the Commissioner grants the waiver provided in Section 51.0119, subsection (d) of this chapter, he shall bill the permittee at the end of each month for all permits issued during that month, and the permittee shall pay said bill not later than the last day of the following month. The Commissioner may in his discretion accept a personal check in payment of such bill, provided the check is received by the Commissioner not later than the fifteenth (15th) day of the month following the month covered by the billing. The acceptance of the check constitutes a payment of such bill when, but not before, the check is duly paid. All such checks shall be deposited daily by the Commissioner with the County Treasurer.

(c) **IMPOSITION OF CONDITIONS OR CHANGES BY COMMISSIONER.** Any permit authorized under any of the provisions of this division may be issued subject to such conditions, changes and limitations as are, in the discretion of the Commissioner, necessary for the protection of the highways, or to prevent undue interference with traffic, or to protect both persons and property within, upon or adjacent to said highways from damage or danger.

The Commissioner may issue a single permit for any number of excavations which are part of a single project and may also issue a single annual permit for service connections. Either permit may be exercised by giving not less than forty-eight (48) hours notice of the Commissioner on a form to be prescribed by the Commissioner before work is commenced.

(d) **RESERVATION OF THE POWER TO CHANGE THE CONDITIONS AFTER PERMIT ISSUED.** Any permit issued by the Commissioner under any of the provisions of this division, or the conditions to which it has been made subject, may be amended or changed if the Commissioner deems such amendment or change to be necessary for the protection of the highways, or to prevent undue interference with traffic, or to protect both persons and property within, upon or adjacent to said highways from damage or danger. Notification of the amendment or change shall be made by the Commissioner either by mailing written notice to the permittee at the address indicated on his application for the permit, or by making personal service of said written notice upon the permittee. The amendment or change shall be effective either twenty-four (24) hours after said written notice is deposited in the United States mail, or immediately upon completion of personal service.

(e) **COMMENCEMENT AND COMPLETION OF WORK.** Every permittee shall complete the work within the time required by the permit. Permits issued hereunder shall be valid only for the period of time specified in the permits, unless the County Highway Engineer grants a time extension.

(f) **REFUSAL TO ISSUE PERMIT.** The Commissioner may refuse to issue permits or may revoke any outstanding permits heretofore or hereafter issued, or any portion thereof, where the work has not been started, when the work authorized by the permits, or such portions thereof is included in the proposed work to be done, by any existing assessment district, or by any proposed assessment district for which formation proceedings have been instituted by the Board of Supervisors.

(g) NON-TRANSFERABILITY OF PERMITS. Permits issued pursuant to this division are non-transferable.

(h) PERMITS SUBJECT TO THE USE OF THE HIGHWAY BY OTHERS. Every permit granted pursuant to the provisions of this division, shall be granted subject to the right of the County or of any other person entitled thereto, to use that part of such highway for any purpose for which such highway may lawfully be used.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960); Amended Ordinance #1937 (1974);

**51.0113 Holding County Harmless.**

On each application the applicant shall sign a statement that he agrees to preserve and save harmless the County and each officer and employee thereof, from any liability or responsibility for any accident, loss or damage to persons or property happening or occurring as a proximate result of his negligence or the negligence of his agents, servants, employees or contractors in the design or performance of any work undertaken under any permit granted pursuant to the application.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

**51.0114 Notice of Completion of Work.**

Upon completion of any work or act for which a permit has been granted, the permittee shall notify the Commissioner in writing on a form prescribed by the Commissioner.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

**51.0115 Relocation of Structures - Removal of Encroachment.**

The Commissioner may require any person who, pursuant to a duly issued permit under this division, has performed construction work or placed and maintained any encroachment, to move the same at his own cost and expense to such different location as is specified in a written demand of the Commissioner, whenever such move is necessary to insure the safety of the traveling public or to permit the improvement of the highway and may require the application to contain a signed statement by the applicant to this effect; provided, however, that the foregoing requirement shall not apply to any right which has been continuously exercised since a time prior to the date when such portion of the highway became part of a public highway, or which right exists by virtue of a document recorded prior to such date in the office of the County Recorder of San Bernardino County, California, provided that such right has not (in either case) been subordinated by a document recorded in such office to the right of the public to maintain such portion of the highway. The Commissioner shall not require the applicant to move or change the location of construction work or encroachments for a temporary purpose. The Commissioner shall specify in the demand a reasonable time within which the work of relocation must be commenced, and the permittee must commence such location within the time specified in said demand and thereafter diligently prosecute the same to completion.

In the event the permittee fails to comply with any such demand, the construction work or encroachment specified in the demand may be removed by the Commissioner, and the cost thereof may be recovered from the permittee.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

**51.0116 Placement of Material or Obstruction on Highway.**

No person shall place or pile any material in or upon any highway or leave any obstruction or impediment to travel in or upon any highway without a permit to do so.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

**51.0117 Interference with Commissioner.**

A person shall not prevent or obstruct the Commissioner, or his duly authorized representative, in making any inspection authorized by this division or in taking any sample or in making any test.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960); Amended Ordinance #2377 (1979);

**51.0118 Invalid Provisions.**

If any provision of this division, or the application thereof to any person or circumstance is held invalid, the remainder of this division, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

**51.0119 Highway Permit Code.**

This division shall be known as and may be cited as the "Highway Permit Code."

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);

**51.0120 Compliance with Housemoving Rules and Regulations.**

The permittee shall comply with the Housemoving Rules and Regulations, County of San Bernardino, as amended, except to the extent that such rules and regulations are expressly modified or deleted in the permit.

Adopted Ordinance #815 (1957); Amended Ordinance #922 (1960);